

REPORT BY CANADA

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GENERAL COMMENTS

The new Parliament elected on January 23, 2006 will open next week. The new government has announced that it would introduce early in the Session legislation to improve accountability in government. Canada should be able to report on its content at our next meeting.

The Cabinet was sworn in on February 6, 2006 and on the same day, the Prime Minister issued *A Guide for Ministers* and a *Conflict of Interest and Post-Employment Code for Public Office Holders*. These two documents, which replace those issued by the previous government, contain the rules upon which the Prime Minister will hold his Ministers, their staff and senior officials to account.

In 2006, the Human Security Program of the Department of Foreign Affairs and International Trade provided a contribution to the Technical Secretariat of the MESICIC to support the MESICIC Solidarity Fund. The contribution provided financial assistance for the participation of experts in the Ninth Plenary Meeting of the Committee of Experts of the MESICIC, as well as for part of the costs of translation for the Ninth Plenary Meeting.

The Canadian International Development Agency has provided financial support to a project aimed at assisting the first four countries reviewed by MESICIC to develop national plans related to the implementation of the Committee's recommendations.

CANADA'S IMPLEMENTATION OF RECOMMENDATIONS

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE COMPLIANCE (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)

1.1.a. Strongly encourage those public service institutions, as well as Parliament, whose officers and employees are not covered by a code of conduct outlined in Chapter II, Part B section 1.1.1 of the Report to adopt codes of conduct for those officers and employees (see Chapter II, Part B section 1.1.2 of this Report).

The Public Servants Disclosure Protection Act (PSDPA) was unanimously adopted by the House of Commons and the Senate, and received Royal Assent on November 25, 2005. Its purpose is to encourage public servants to report wrongdoing in the public

sector, protect those who make disclosures and ensure a fair and objective process for those against whom allegations are made.

The PSDPA calls for the creation of a Charter of Values and a Code of Conduct for the broader public sector, including the core public administration, Crown corporations and separate agencies. The PSDPA is not yet in force.

1.1.b. Adopt measures to ensure that the post-employment restrictions for public servants can be enforced (see Chapter II, Part B, section 1.1.2 of this Report)

The Government of Canada is currently developing a Code of Procurement Conduct to clarify the expected rules of conduct between government and those with whom it contracts. As part of this initiative, consideration will be given to articulating clear expectations and consequences for those employers who hire public servants who are breaching their one-year cooling off period, as outlined in the post-employment measures of the Values and Ethics Code for the Public Service.

1.1.c. Canada should continue to improve evaluation mechanisms to analyze the results of enforcement of conflict of interest provisions (see Chapter II, Part B, section 1.1.2 of this Report).

The Office of Public Service Values and Ethics has recently undertaken a governance model study for values and ethics in the public service. The study will identify key success factors for establishing and measuring the impact of values and ethics programs and mechanisms, a component of which is management and enforcement of conflict of interest measures.

1.1.d. Canada should continue to promote the importance of the Values and Ethics Code for the Public Service in decision-making in the management of human and financial resources (see Chapter II, Part B, section 1.1.3 of this Report).

The Public Service of Canada is working with its main training institution, the Canada School of Public Service, to make values and ethics a core element woven into required training programs for human and financial management. The required training programs are for supervisors, managers and executives as well as functional specialists.

1.2 Establish a mechanism to assess the effectiveness of the Policy on Losses of Money and Offences and Other Illegal Acts against the Crown (see Chapter II, Part B, section 1.2.3 of this Report).

Canada is of the view that there are currently sufficient mechanisms to assess the effectiveness of the Policy on Losses of Money and Offences and Other Illegal Acts against the Crown.

Currently, there is a major assessment exercise underway, known as the Policy Suite Renew. Through this exercise, the effectiveness of this policy will be considered as part

of this renewal process. In addition, there are other continuous processes and reviews undertaken by the Treasury Board Secretariat (TBS) to make policy assessments that lead to ideas for improving Government-wide management. Currently, through the Government's Management Accountability Framework (MAF) initiative, lead by the TBS as part of its oversight responsibilities, the effectiveness of policies may be called into review when it is determined that their application is inappropriate or problematic. TBS input to this MAF process is derived, in part, from reviewing both external and internal audit reports.

1.3.a. Adopt provisions to establish the obligation to disclose wrongdoings, including presumed acts of corruption, as well as provide reprisal protection mechanisms to those individuals working in the federal public sector who are not currently required to disclose, or who are not afforded protection for such disclosures (see Chapter II, Part B, section 1.3.2 of this Report).

The Public Servants Disclosure Protection Act, once it comes into effect, will legislate protection mechanisms for those who disclose wrongdoing in the entire federal public sector. Until the Act comes into force, the Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace continues to apply to the core public administration, but not to the separate agencies and Crown Corporations. However, some of these agencies and Crown corporations have their own policy.

1.3.b. Strengthen the training and awareness building programs to ensure that individuals working in the federal public sector are aware of their duties, responsibilities, and protections for reporting acts of corruption and wrong-doing in the workplace (see Chapter II, Part B, section 1.3.2 of this Report).

This awareness promotion is built into basic orientation for new employees as well as to the required training of public servants noted above. It is also done by individual departments in promoting the Disclosure of Wrongdoing Policy. Once the Public Servants Disclosure Protection Act is in force, comprehensive training and awareness strategies will be put in place to ensure that public servants are well aware of their duties, responsibilities and protections under the new legislation.

2. SYSTEMS FOR REGISTERING INCOME, ASSETS, AND LIABILITIES (ARTICLE III, PARAGRAPH 4 OF THE CONVENTION)

2.a. Adopt provisions where they do not currently exist on the systems for registering sources of income, assets and liabilities of family members of appropriate individuals in the federal public sector that potentially could conflict with the official duties of the individual (see Chapter II, Part B, section 2.2 of this Report).

Again, once the Public Servants Disclosure Protection Act comes into effect, a Code of Conduct for the broader public sector universe will be developed. The question of

reporting the income, assets and liabilities of family members will be examined at that time.

2.b. Adopt provisions on the systems for registering, where appropriate, sources of income, assets and liabilities that potentially could conflict with the official duties of those employees in the federal public sector who currently are not required to meet such registration procedures, in order to contribute to the promotion of the purposes of the Convention (see Chapter II, Part B, section 2.2 of this Report).

As the Public Servants Disclosure Protection Act calls for a Code of Conduct for the broader public sector universe, provisions for registering income, assets and liabilities that could give rise to a conflict of interest will be considered within this initiative. The Values and Ethics Code for the Public Service, currently in effect, contains disclosure mechanisms to report real, potential or apparent conflicts of interests for the core public administration.

2.c. Adopt measures so that the Confidential Reports submitted in accordance with the Values and Ethics Code of the Public Service and of Defence and Administrative Orders and Directives, 7021-1, are reviewed on a timely basis and appropriate steps taken to address conflicts of interest and other possible violations of law and to consider publication of such reports, where appropriate (see Chapter II, Part B, section 2.2 of this Report).

In developing a Code of Conduct for the broader public sector universe, consideration will be given to the importance of timelines in addressing conflicts of interests that have been disclosed via Confidential Reports.

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4 AND 11 OF THE CONVENTION)

3.a. Adopt the relevant measures to ensure that there are oversight bodies for effective administration of new systems developed as a result of Recommendations in Part B (1) and (2).

A new Policy on Internal Audit was issued by the Treasury Board in October 2005. The new policy strengthens and professionalizes the internal audit function across government in a number of substantial ways. It increases the independence of the internal audit function by creating a new position of Chief Audit Executive separate from other departmental operations, and by including in the audit committees a number of professionals drawn from outside the public service. The Policy also enhances the oversight, monitoring and reporting role of the internal audit function by requiring the Chief Audit Executive to provide annual opinions on the adequacy of controls and the Comptroller General to report annually to Treasury Board on the overall state of controls across the federal government. The Policy is to come into force on April 2, 2006.

3.b. Continue to consider improvements to the performance reports of departments and agencies with oversight responsibilities for paragraphs 1, 2, 4 and 11 of Article III of the Convention (see Chapter II, Part B, section 3.3 of this Report).

The new government which was elected on January 23, 2006 has indicated its intention to designate deputy ministers as Accounting Officers of their departments, and make them responsible to Parliament of the spending and administrative practices of their departments. The previous government had announced last Fall that it would report to the public and to Parliament on commitments in areas such as the state of government-wide management and on human resources management.

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11 OF THE CONVENTION)

4.2. Continue to assess the reasons for the delays referred to in the Information Commissioner's Annual Report and the concerns of the Information Commissioner on the availability of limited resources, and take the measures deemed relevant on these matters (see Chapter II, Part B, section 4.2.3 of this Report).

The government will continue to look for means of reducing the impact of factors which can result in undue delays in responding to requests made under the *Access to Information Act*, including the appropriate allocation of limited resources within institutions.

4.3. Encourage federal government departments and agencies to continue to make full use of the Consulting with Canadians website (see Chapter II, Part B, section 4.3.2 of this Report).

All government departments must submit a report of all consultations to the Privy Council Office semi-annually. This ensures that public consultations are posted on the government-on-line portal /Consulting with Canadians website.

7. GENERAL RECOMMENDATIONS

7.1 Design and implement, when appropriate, programs to train public officials responsible for implementing the systems, standards, measures and mechanisms considered in this report, for the purpose of guaranteeing that they are adequately understood, managed and implemented.

Comprehensive training programs have recently been piloted at the Canada School of Public Service including orientation for all new public servants, supervisors, managers and executives. Values and Ethics are well woven into the fabric of these courses.

Additionally, a training curriculum has been developed for departmental experts in the field of values and ethics. This training curriculum is currently being piloted.

7.2 Select and develop procedures and indicators, when appropriate, that make it possible to verify the follow-up to the recommendations contained in this report, and report back to the Committee through the Technical Secretariat in this regard. For the purposes indicated, Canada could consider taking into account the list of the most widely used indicators, applicable in the Inter-American system that were available for the selection indicated by the country under analysis, which has been published on the OAS website by the Technical Secretariat of the Committee, as well as information derived from the analysis of the mechanisms developed in accordance with recommendation 7.3, which follows.

No comment

7.3 Develop, when appropriate and where they do not yet exist, procedures designed to analyze the mechanisms mentioned in this report, and the recommendations contained therein.

No comment